

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	EB Docket No. 07-264
)	
LONNIE L. KEENEY)	
)	
Amateur Radio Operator and Licensee of Amateur)	
Radio Station KB9RFO)	File No. EB-06-IH-2945

ORDER TO SHOW CAUSE

Adopted: November 20, 2007

Released: November 20, 2007

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Order to Show Cause, and pursuant to Sections 312(a) and (c) of the Communications Act of 1934, as amended (the "Act"),¹ the Enforcement Bureau of the Federal Communications Commission (the "FCC" or "Commission") hereby commences a hearing proceeding before an administrative law judge. The purpose of this hearing is to determine whether Lonnie L. Keeney, the licensee of Amateur Radio Station KB9RFO (the "Station") and holder of an Amateur Radio Operator license, is qualified to remain a Commission licensee, in light of a felony conviction against him, and whether his license should be revoked.

II. BACKGROUND

2. The FCC granted Mr. Keeney a license for the Station on December 29, 1998. At all times while Mr. Keeney has been an amateur licensee, the Commission has required that such licensees adhere to certain standards that are set forth in the Commission's character policy statement, which states that "evidence of any conviction for misconduct constituting a felony will be relevant to our evaluation of an applicant's or licensee's character."²

3. In 2002, Mr. Keeney was charged in the Criminal Division of the Putnam Circuit Court, State of Indiana, with two counts of child molestation in violation of Indiana Code Section 35-42-4-3, a

¹ See 47 U.S.C. §§ 312(a) & (c).

² See *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentation to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications*, Policy Statement and Order, 5 FCC Rcd 3252, 3252 (1990) ("1990 Character Order"). The Commission has consistently applied these broadcast character standards to applicants and licensees in the Amateur Radio Service. See, e.g., *Schoenbohm v. FCC*, 204 F.3d 243, 246-49 (D.C. Cir. 2000), cert. denied, 531 U.S. 968 (2000) (affirming the Commission's denial of an amateur radio operator's license renewal application based on the licensee's felony conviction for computer fraud, as well as its lack of candor regarding such conviction) ("*Schoenbohm*").

Class A felony, and Section 35-42-4-3, a Class C felony.³ Pursuant to a plea agreement, Mr. Keeney pled guilty to one count of felony child molestation, and, on December 10, 2002, was sentenced by the Putnam Circuit Court to six years of incarceration with the Indiana Department of Corrections.⁴ The Court ordered that Mr. Keeney serve one year of the sentence with credit for 35 days already served, and suspended the remaining five years of that sentence, but placed Mr. Keeney on supervised probation for five years.⁵ Mr. Keeney remains on probation.⁶

III. DISCUSSION

4. Section 312(a)(2) of the Act provides that the Commission may revoke a license for “conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application.”⁷ The character of the applicant is among those factors that the Commission considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought.⁸

5. In assessing character qualifications in broadcast licensing matters, the Commission considers, as relevant, “evidence of any conviction for misconduct constituting a felony.”⁹ As the Commission stated, “[b]ecause all felonies are serious crimes, any conviction provides an indication of an applicant’s or licensee’s propensity to obey the law” and to conform to provisions of both the Act and the Commission’s rules and policies.¹⁰ The Commission has consistently applied these broadcast character standards to applicants and licensees in the Amateur Radio Service.¹¹ Thus, felony convictions raise

³ On May 24, 2002, an Information and Probable Cause hearing was held in the Putnam Circuit Court, State of Indiana, wherein the Court found probable cause to charge Mr. Keeney with violation of Sections 35-42-4-3 and 35-42-4-3(b) of the Indiana Code. *See* Ind. Code §§ 35-42-4-3 (“A person [‘at least 21 years of age’] who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting . . . a Class A felony . . .”), 35-42-4-3(b) (“A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony.”). *See State of Indiana vs. Lonnie L. Keeney*, No. 67C01-0205-FA67 (Putnam Cir. May 24, 2002) (Information) (unpublished).

⁴ *See State of Indiana vs. Lonnie L. Keeney*, No. 67C01-0205-FA67 (Putnam Cir. December 10, 2002) (Order On Sentencing Hearing) (unpublished). *See also State of Indiana vs. Lonnie L. Keeney*, No. 67C01-0205-FA (Putnam Cir. May 12, 2003) (Probation Order) (unpublished).

⁵ *See id.*

⁶ Mr. Keeney was placed on probation from May 12, 2003 until May 12, 2008. *See id.*

⁷ 47 U.S.C. § 312(a)(2).

⁸ *See* 47 U.S.C. § 308(b).

⁹ *See 1990 Character Order*, *supra* note 2.

¹⁰ *See id.*

¹¹ *See Schoenbohm*, 204 F.3d at 247. *See also Roger Thomas Scaggs*, Order to Show Cause, 18 FCC Rcd 24367 (EB 2003) (finding that an amateur radio operator licensee’s murder conviction raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *George E. Rodgers*, Hearing Designation Order, 10 FCC Rcd 3978 (WTB 1995) (finding that an amateur radio operator licensee’s felony conviction for indecent assault upon and corruption of minors raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *Thomas M. Haynie*, Order to Show Cause and Suspension Order, 7 FCC Rcd 4994 (FOB 1992), *affirmed and licenses revoked*, 7 FCC Rcd 7291 (PRB 1992) (revoking general radiotelephone operator, amateur advanced class radio and amateur radio station licenses on the basis of licensee’s felony conviction for intentional interference with satellite communications); *Jerry E. Gastil*, Order to Show Cause, 4 FCC Rcd 3977 (PRB, FOB 1989) (finding that a general radio operator and amateur radio

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potential questions regarding an amateur licensee's qualifications.

6. Mr. Keeney's felony conviction¹² raises serious questions as to whether he possesses the requisite character qualifications to be and to remain a Commission licensee, and whether his captioned license should be revoked. Before revoking a license, the Commission must serve the licensee with an order to show cause why revocation should not issue, and must provide the licensee with an opportunity for hearing.¹³ Consequently, we hereby designate the matter for hearing before a Commission administrative law judge to provide Mr. Keeney with an opportunity to demonstrate why his license should not be revoked.

IV. ORDERING CLAUSES

7. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Sections 312(a) and (c) of the Communications Act of 1934, as amended,¹⁴ and authority delegated pursuant to Sections 0.111, 0.311, and 1.91(a), of the Commission's rules,¹⁵ Lonnie L. Keeney is hereby **ORDERED TO SHOW CAUSE** why his authorization for Amateur Radio License KB9RFO should not be revoked. Lonnie L. Keeney shall appear before an administrative law judge at a time and place to be specified in a subsequent order and provide evidence upon the following issues:

- (a) to determine the effect of Lonnie L. Keeney's felony conviction(s) on his qualifications to be and to remain a Commission licensee; and
- (b) to determine, in light of the evidence adduced pursuant to the foregoing issue, whether Lonnie L. Keeney is qualified to be and to remain a Commission licensee; and
- (c) to determine in light of the evidence adduced pursuant to the foregoing issues, whether his Amateur Radio License KB9RFO should be revoked.

8. **IT IS FURTHER ORDERED** that, pursuant to Section 312(c) of the Communications Act of 1934, as amended, and Section 1.91(c) of the Commission's rules,¹⁶ to avail himself of the opportunity to be heard and the right to present evidence in the hearing in this proceeding, Lonnie L. Keeney, in person or by his attorney, **SHALL FILE** with the Commission, within thirty (30) days of the release of this Order to Show Cause, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified herein.

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.92(c) of the Commission's rules, if Lonnie L. Keeney fails to timely file a written appearance within the thirty (30)-day period, or has not filed a petition to accept, for good cause shown, a written appearance beyond the expiration of the thirty (30)-day period, the right to a hearing shall be deemed to be waived.¹⁷ Where a hearing is waived, the presiding administrative law judge shall, at the earliest practicable date, issue an order terminating the

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station licensee's felony conviction for interfering with governmental radio communications raised serious questions regarding his character and qualifications to remain a Commission licensee).

¹² The facts of Mr. Keeney's felony convictions are *res judicata* and will not be retried in this hearing.

¹³ See 47 U.S.C. § 312(c).

¹⁴ See 47 U.S.C. §§ 312(a) and (c).

¹⁵ See 47 C.F.R. §§ 0.111, 0.311 and 1.91(a).

¹⁶ See 47 C.F.R. § 1.91(c).

¹⁷ See 47 C.F.R. § 1.92(a).

hearing proceeding and certifying the case to the Commission.¹⁸

10. **IT IS FURTHER ORDERED** that, pursuant to Section 312(d) of the Communications Act of 1934, as amended,¹⁹ and Section 1.91(d) of the Commission's rules,²⁰ the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues specified above shall be on the Enforcement Bureau.

11. **IT IS FURTHER ORDERED** that a copy of this **ORDER TO SHOW CAUSE** shall be sent, by Certified Mail, Return Receipt Requested, to Lonnie L. Keeney at 181 S. Co. Rd. 100E, Greencastle, IN 46135.

12. **IT IS FURTHER ORDERED** that a copy of this **ORDER TO SHOW CAUSE**, or a summary thereof, shall be published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

¹⁸ See 47 C.F.R. § 1.92(c).

¹⁹ See 47 U.S.C. § 312(d).

²⁰ See 47 C.F.R. § 1.91(d).